

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: McQuillinM@bcdschools.net, ramseym@bcdschools.net, bakerjoe@bcdschools.net, Littletonk@bcdschools.net, hinsonj@bcdschools.net, WoffordS@bcdschools.net, bradley@bcdschools.net, wigfallcrystal@bcdschools.net, barrowd@bcdschools.net**

Mr. Mac McQuillin  
Board President  
Berkeley County School Board  
229 East Main Street  
Moncks Corner, SC 29461

Re: Concerns with prayer at school board meetings

Dear President McQuillin and Board members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding constitutional concerns with prayers that have been allowed to take place at Berkeley County School Board meetings. FFRF is a national nonprofit organization with more than 41,000 members across the country, including more than 300 members in South Carolina. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the Board has been allowing members of the audience to recite the Lord's Prayer during its moment of silence. We understand these prayers are being led by Ann Conder, a former school board member, in order to "invite God into our boardroom," and that the Board has taken no action to stop her from interrupting the moment of silence to impose Christian prayer on those attending school board meetings.<sup>1</sup> In fact, it is our understanding that at the most recent meeting, a woman interrupted Ms. Conder's inappropriate disruption of the meeting, and that the woman was approached by a security guard while Ms. Conder was allowed to continue praying, apparently with the approval of the school board.

It is our understanding that Ms. Conder intends to continue disrupting the moment of silence until the Board agrees to change its policies and impose Christian prayer upon staff, students, and community members in violation of the Establishment Clause.

The Board has chosen to host a moment of silence to allow those who wish to pray prior to meetings to do so without violating the constitutional rights of its students and community members by imposing prayer on everyone. The Board should honor its decision and not allow members of the public to interrupt this moment. We ask that the Board take immediate action to stop Ms. Conder from commandeering the moment of silence and using it to impose her personal religious beliefs on those in attendance. If she attempts to disrupt the moment of silence with Christian prayer, it is incumbent on the Board to have her removed from the meeting instead of removing or punishing those attempting to stop this disruption that clearly violates the Board's rule regarding public participation. If the Board chooses to allow a person to

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<sup>1</sup> <https://www.live5news.com/2023/06/08/berkeley-co-school-board-meeting-interruptions-cause-chaos/>

speak during the moment of silence, it would be required to allow anyone to speak during that time. The Board's removal of the other speaker also indicates the Board is in control of the moment of silence and does not intend for it to be a public forum for general public comment. If this is the case, all speakers must be treated equally and shut down when they overtake the moment of silence.

Allowing Ms. Conder to continue delivering prayer at school board meetings is no different than if the Board were inviting her to deliver the prayers and constitutes school-sponsored prayer that violates the Constitution. The Supreme Court has consistently struck down prayers offered at school-sponsored events. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down school-sponsored prayers at football games); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring school-sponsored devotional Bible reading and recitation of the Lord's Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (holding formal recitation of prayers in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes government favoritism towards religion, which violates the Establishment Clause of the First Amendment. The Court's recent decision in *Kennedy v. Bremerton School District* did not alter the law regarding these kinds of coercive prayer practices, nor did it overrule these previous decisions.

It is beyond the scope of a public school board to conduct, or allow others to conduct, prayer as part of its meetings. This practice violates the Establishment Clause of the First Amendment. *See Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999); *FFRF v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132 (9th Cir. 2018), *petition for review en banc denied*, No. 16-55425 (9th Cir., Dec. 26, 2018); *Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097; *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355 (9th Cir. 2002).

In the most recent case striking down a school board's prayer practice, the Ninth Circuit Court of Appeals reaffirmed that Establishment Clause concerns are heightened in the context of public schools "because children and adolescents are just beginning to develop their own belief systems, and because they absorb the lessons of adults as to what beliefs are appropriate or right." *FFRF v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132, 1137 (9th Cir. 2018). The court reasoned that prayer at school board meetings "implicates the concerns with mimicry and coercive pressure that have led us to 'be [ ] particularly vigilant in monitoring compliance with the Establishment Clause.'" *Id.* at 1146 (quoting *Edwards v. Aguillard*, 482 U.S. 578, 583–84 (1987)). The Court reaffirmed in *Kennedy* that the schools cannot "make a religious observance compulsory." *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2429 (2022) (quoting *Zorach v. Clauson*, 343 U.S. 306, 314 (1952)). These concerns are all still at issue in this case, and the fact that the prayers are being delivered by a former school board member during the moment of silence does not make these prayers permissible. The Board is clearly approving these prayers by not taking action to stop them.

Students and parents have the right—and often reason—to participate in school board meetings. It is coercive, insensitive, and intimidating to force nonreligious citizens to choose between making a public showing of their nonbelief by refusing to participate in the prayer or else display deference toward a religious sentiment in which they do not believe. Those attending board meetings are free to pray privately or to worship on their own time in their own way, but they cannot interrupt the meeting in order to impose prayers upon everyone. The Board must take action to stop these unsanctioned prayer rather than lending its power and prestige to religion and implicitly coercing attendees into participating in

religious exercise, which alienates the thirty-seven percent of Americans who are non-Christian,<sup>2</sup> including the twenty-three percent of Berkeley County residents who identify as religiously unaffiliated.<sup>3</sup>

Furthermore, it is disturbing that an atheist speaking during this time was approached by security and prevented from speaking while Ms. Conder was allowed to continue delivering a prayer in violation of board policy and the law. This action amounts to viewpoint discrimination under the First Amendment because the Board treats expression differently based on the viewpoint expressed. Viewpoint discrimination is a blatant violation of the Free Speech Clause. If the Board wants to allow speech during the moment of silence, it cannot discriminate amongst speakers.

It is unconstitutional for the Board to host prayers at its meetings or to allow a community member to commandeer the moment of silence to impose prayer on those students, parents, and community members in attendance. We request that you take immediate action to stop Ms. Conder from interrupting board meetings with prayer in order to protect the rights of students, their parents, and the local community. Please inform us in writing of the steps the Board will take to resolve this matter.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher Line  
Staff Attorney  
Freedom From Religion Foundation

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<sup>2</sup> Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at [www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).

<sup>3</sup> *The 2020 Census of American Religion*, Public Religion Research Institute (July 8, 2021), available at <https://www.prii.org/research/2020-census-of-american-religion>.